

# **Bureau of Ocean Energy Management, Regulation and Enforcement**

## **Efforts to Offer a Lease for the Cape Wind Energy Project**

**Updated October 6, 2010**

\* The Minerals Management Service was restructured and renamed the Bureau of Ocean Energy Management, Regulation and Enforcement on June 21, 2010.

### **Project Description**

- Cape Wind Associates, LLC (CWA) proposed to construct and operate a commercial wind energy facility on the Outer Continental Shelf (OCS) offshore Massachusetts. The project calls for 130 turbines of 3.6 megawatts, each with a maximum blade height of 440 feet, to be arranged in a grid pattern in 25 square miles of Nantucket Sound in Federal waters offshore Cape Cod, Martha's Vineyard, and Nantucket Island. The projected maximum electric output would be 468 MW (average of 183 MW).
- The average expected production from the project could provide about 75 percent of the electricity demand for Cape Cod and the Islands of Martha's Vineyard and Nantucket.

### **Project History**

- In November 2001, CWA applied for a permit from the U.S. Army Corps of Engineers (the Corps) to construct an offshore wind power facility on Horseshoe Shoal in Nantucket Sound, offshore Massachusetts.
- In August 2002, the Corps issued a permit for Cape Wind to construct a meteorological tower to measure wind speeds and gather data. It was constructed in fall 2002.
- In November 2004, the Corps issued a draft Environmental Impact Statement (EIS) for public review and comment; over 5,000 comments were received.
- Following the adoption of the Energy Policy Act of 2005, the Department of the Interior (DOI) was given authority to issue leases, easements, or rights-of-way for renewable energy projects on the OCS. This authority was delegated to the Minerals Management Service (MMS), which became the lead agency.
- The Cape Wind proposal was grandfathered by a savings clause in Section 388 of the Energy Policy Act of 2005, exempting the project from competition.
- Cape Wind submitted an application to MMS in 2005.
- The MMS published the Cape Wind draft EIS on January 18, 2008, and the final EIS on January 21, 2009.

### **National Environmental Policy Act**

- The MMS reviewed the draft EIS prepared by the Corps but determined that a new EIS should be prepared to cover resource areas and issues beyond those covered in the Corps draft EIS.
- The MMS invited Federal and State entities, including the Massachusetts State Historic Preservation Officer (SHPO), to become cooperating agencies. The MMS worked with 18 cooperating agencies on the document.
- In May 2006, the MMS issued a Notice of Intent to prepare a new EIS.
- In May 2006, the MMS conducted the first of its Government-to-Government meetings with the Wampanoag Tribe of Gay Head (Aquinnah) and Mashpee Wampanoag Tribes.
- In January 2008, the draft EIS was made available.
- In March 2008, the MMS held draft EIS public hearings in Boston, West Yarmouth, Nantucket Island, and Martha's Vineyard. The MMS received and reviewed over 42,000 comments.

- In January 2009, the MMS published the final EIS. The analysis showed that impacts are expected to be mostly negligible or minor. Overall, the project is not expected to have a negative impact on the biological, physical, or human environments.
- In March 2010, MMS completed an Environmental Assessment (EA) to determine whether any new information existed that would alter or inform the final EIS findings before a decision was rendered on the project. Analysis determined that there was no new significant impact or information.
- On March 4, the MMS announced the availability of an EA for the Cape Wind Energy Project. MMS prepared the EA in order to evaluate the significance of any new information that has become available since the final EIS for the Project was published in January 2009. The EA was available for public review and comment in the *Federal Register* through April 7, 2010. Approximately 130 comments were received, with a roughly even distribution between those for and against the Cape Wind project proposal.

#### **Section 106 National Historic Preservation Act (NHPA) Review**

- The MMS worked with the National Park Service (NPS), the Advisory Council on Historic Preservation (ACHP), the Massachusetts SHPO, and all Section 106 consulting parties, including the Mashpee Wampanoag Tribe and the Wampanoag Tribe of Gay Head (Aquinnah) to address potential adverse effects to cultural resources within the Area of Potential Effect.
- MMS held eight Section 106 meetings (six full consultation meetings and two with the Tribes only in Massachusetts and Washington, DC, between July 2008 and January 2010).
- MMS released a “Findings of Adverse Effect” on December 29, 2008, which concluded that there will be an adverse indirect visual effect on 28 historic properties and one cultural (Tribal) property.
- On October 20, 2009, the NPS issued its report on impacts to two National Historic Landmarks (NHLs). NPS concluded the visual impact on these will be adverse and indirect.
- On November 17, 2009, the MMS submitted its Eligibility Determination to the Massachusetts SHPO regarding additional tribal sites that the MMS believed qualify as Traditional Cultural Properties (TCPs). MMS submitted its Eligibility Determination on Nantucket Sound as a TCP to the NPS, Keeper of the Register, on November 18, 2009.
- On January 4, 2010, the NPS determined that Nantucket Sound is eligible for listing in the National Register as a TCP.
- The Secretary of the Interior conducted a full Section 106 consultation meeting on January 13, 2010. The meeting was preceded by a Government-to-Government meeting with the Wampanoag Tribes and followed by a meeting with the would-be Memorandum of Agreement (MOA) signatories.
- MMS presented its revised “Findings of Adverse Effect” document and draft mitigation measures at the January 13, 2010 meeting.
- The MMS made the revised “Findings” document available for public review and comment from January 25 through February 12, 2010.
- In February 2010, Secretary Salazar traveled to Cape Cod and Martha’s Vineyard to meet with the Aquinnah and Mashpee representatives and to tour Nantucket Sound.
- The comments on the revised “Findings” document were reviewed and considered by the MMS as part of the NHPA Section 106 consultation process.
- The Secretary of the Interior terminated consultations on March 1, 2010 because an agreement among the parties could not be reached. The MMS terminated Section 106 consultations under the NHPA.
- The ACHP conducted a public meeting on March 22, 2010 to provide the public an opportunity to address the project’s effects on historic properties and to suggest measures to avoid, minimize, or mitigate adverse effects on those properties.

- The ACHP provided its final comments to the Secretary of the Interior on April 2, 2010. The ACHP recommended that the Secretary not approve the project proposal due to adverse effects to historic properties that will be direct and indirect, cannot be avoided, and cannot be satisfactorily mitigated.
- MMS and DOI prepared a response to the ACHP, per Section 106 of the NHPA.

#### **Current Status of the Project**

- Secretary of the Interior Ken Salazar and Cape Wind Associates signed the nation's first lease for commercial wind energy development on the Outer Continental Shelf (OCS) on October 6, 2010.
- The area offered in the lease is comprised of 25 square miles on the OCS in Nantucket Sound offshore Massachusetts. The 130 planned wind turbines could generate a maximum electric output of 468 megawatts with an average anticipated output of 182 megawatts.
- The 28-year lease for the area off the coast of Cape Cod, Mass. will cost the company \$88,278 in annual rent prior to production, and a 2 to 7 percent operating fee during production. The fee is based on revenues from selling the offshore wind energy in regional markets.